

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ELEAZAR VILLEGAS,	)	
	)	
Plaintiff(s),	)	No. C 99-21157 CRB (PR)
	)	
v.	)	ORDER
	)	
S. DUCK, et al.,	)	
	)	
Defendant(s).	)	
_____	)	

Per order filed on July 2, 2007, the court revoked plaintiff's in forma pauperis ("IFP") status and ordered him to pay the remaining \$ 149.88 on the applicable \$ 150.00 filing fee in this matter, or file a court-approved non-prisoner IFP application showing that he is entitled to pauper status under 28 U.S.C. § 1915. The court also ordered plaintiff to show cause show cause as to why defendants Duck, Higginbotham, Harris and Nappi should not be dismissed without prejudice under Federal Rule of Civil Procedure 4(m).

On October 1, 2007, plaintiff filed a response to the court's order to show cause stating that he had paid the remaining \$ 149.88 on the applicable filing fee and arguing that defendants Duck, Higginbotham, Harris and Nappi had not been served by the United States Marshal through no fault of his own.

1 Plaintiff did not file any proof of payment of the remaining \$ 149.88 on  
2 the applicable filing fee and a review of court records did not reveal evidence of  
3 any such payment. Within 30 days of this order, plaintiff shall submit proof of  
4 payment or face dismissal of this suit.

5 Plaintiff has not submitted any proof of service of the summons and  
6 complaint on defendants Duck, Higginbotham, Harris and Nappi either. Plaintiff  
7 became solely responsible for service on these defendants when the court  
8 revoked his IFP status on July 2, 2007. Rule 4(m) requires dismissal without  
9 prejudice of these defendants unless they are served within 120 days after the  
10 court revoked plaintiff's IFP status on July 2, 2007. Within 30 days of this order,  
11 plaintiff shall submit proof of service of the summons and complaint on defendants  
12 Duck, Higginbotham, Harris and Nappi or face dismissal without prejudice of the  
13 unserved defendants.

14 SO ORDERED.

15 DATED: October 30, 2007



16 CHARLES R. BREYER  
17 United States District Judge  
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